

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address William H. Brownstein - State Bar No. 84507 William H. Brownstein & Associates, Professional Corporation 1250 Sixth Street Suite 205 Santa Monica, California 90401-1637 Telephone: (310) 458-0048 FAX: (310) 576-3581 Email: Brownsteinlaw.bill@gmail.com Attorneys for Debtor and Debtor in Possession <input checked="" type="checkbox"/> Attorney for Debtor(s) <input type="checkbox"/> Debtor(s) appearing without attorney</p>	<p>FOR COURT USE ONLY</p> <div style="border: 1px solid black; padding: 10px; text-align: center;"><p>FILED & ENTERED</p><p>NOV 16 2012</p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY jle DEPUTY CLERK</p></div> <p>CHANGES MADE BY COURT</p>
<p style="text-align: center;">UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA –LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>MARTHA ANN BRYAN,</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:12-bk-32514 SK CHAPTER: 13</p>
	<p>ORDER ON MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]</p>
	<p>DATE: November 15, 2012 TIME: 8:30 a.m. COURTROOM: 1575 PLACE: 255 East Temple Street Fifteenth Floor Los Angeles, CA 90012</p>

NAME OF CREDITOR HOLDING JUNIOR LIEN: Citimortgage, a Federal Association

1. The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation
2. The Motion affects the junior trust deed(s), mortgage(s), or other lien(s) encumbering the following real property ("Subject Property"), which is the principal residence of debtor(s):

Street Address: 11011 Whitegate Ave
Unit Number:
City, State, Zip Code: Sunland, California 91040-2239

Legal description or document recording number (including county of recording):

Lot: 52 Tract No: 3683 Abbreviated Description: LOT:52 CITY:REGION/CLU5TER: 03/03177 TR#:3683
TRACT NO 3683 LOT 52 City/Munilfpw: REGION/CLUSTER: 03/03177, A.P.N. 2552-016-012

☐ See attached page.

3. The Subject Property is subject to the following deed(s) of trust, mortgage(s) or other lien(s) in the amounts specified securing the debt against the Subject Property, which will be treated as indicated:

- a. Wells Fargo Home Mortgage, holder of 1st lien in the amount of \$393,780.33.
- b. Citimortgage, holder of 2nd lien in the amount of \$100,000.00 ☒ is ☐ is not to be avoided;
- c. Name of holder of 3rd lien in the amount of \$ Amount of lien ☐ is ☐ is not to be avoided;
- ☐ See attached page for any additional encumbrance(s).

4. The motion is:

- a. ☐ DENIED ☐ with ☐ without prejudice, on the following grounds:

1. ☐ Based upon the findings and conclusions made on the record at the hearing
2. ☐ Unexcused non-appearance by Movant
3. ☐ Lack of proper service
4. ☐ Lack of evidence supporting motion
5. ☐ Other (specify):

- b. ☒ GRANTED on the following terms:

- i. The Subject Property is valued at no more than \$338,000.00 based on adequate evidence.
- ii. This avoidance of the respondent's junior lien is effective upon: ☐ completion of the chapter 13 plan, and ☒ receipt of a chapter 13 discharge in this case.
- iii. Before the discharge, no payments are to be made on the secured claim of the junior lienholder; maintenance payments are not to be made.
- iv. The claim of the junior lienholder is to be treated as an unsecured claim and is to be paid through the plan pro rata with all other unsecured claims.
- v. The junior lienholder's claim on the deed of trust, mortgage or lien shall be allowed as a non-priority general unsecured claim in the amount per the filed Proof of Claim. The junior lienholder is not required to, but may file an amended Proof of Claim listing its claim as an unsecured claim to be paid in accordance with the Debtor's chapter 13 plan. If an amended claim is not filed, the Trustee may treat any claim on the debt (secured or unsecured) filed by the junior lienholder as unsecured upon entry of this order.
- vi. The avoidance of the junior lienholder's deed of trust, mortgage or lien is contingent upon: ☒ completion of the chapter 13 plan, and ☒ receipt of a chapter 13 discharge.
- vii. The junior lienholder shall retain its lien in the junior position for the full amount due under the corresponding note and deed of trust, mortgage or lien in the event of either the dismissal of the Debtor's chapter 13 case, the conversion of the Debtor's chapter 13 case to any other chapter under the Bankruptcy Code, or if the Subject Property is sold or refinanced prior to the Debtor's ☒ completion of the chapter 13 plan, and ☒ receipt of a chapter 13 discharge.

- viii. In the event that the holder of the first deed of trust or any senior lien on the Subject Property forecloses on its interest and extinguishes the junior lienholder's lien rights prior to the Debtor's ☐ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge, the junior lienholder's lien shall attach to the proceeds greater than necessary to pay the senior lien, if any, from the foreclosure sale.
- ix. ☐ See attached continuation page for additional provisions.

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DATED: November 16, 2012

United States Bankruptcy Judge

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
1250 Sixth Street, Suite 205, Santa Monica, CA 90401-1637

A true and correct copy of the foregoing document entitled: **PROPOSED ORDER ON MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* November 16, 2012, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

NOTE: When using this form to indicate service of a proposed order, DO NOT list any person or entity in this service category. Proposed orders do not generate an NEF.

2. SERVED BY UNITED STATES MAIL: On *(date)* November 16, 2012, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* November 16, 2012, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Martha Ann Bryan, Debtor, 11011 Whitegate Ave, Sunland, CA 91040
CitiMortgage, Inc., President and CEO: Sanjiv Das, 1000 Technology Dr., O'Fallon, MO 63368

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



November 16, 2012 Cynthia Pieler

Date Printed Name

Signature

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled: **ORDER ON MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF) – Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (date) November 16, 2012, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.
William H Brownstein on behalf of Debtor Glenroy Day, Brownsteinlaw.bill@gmail.com
United States Trustee (SV), ustpregion16.wh.ecf@usdoj.gov
Kathy A Dockery (TR), efiling@CH13LA.com
Philip J Giles on behalf of Interested Party Courtesy NEF, ecfcacb@piteduncan.com

☐ Service information continued on attached page

2. SERVED BY THE COURT VIA UNITED STATES MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses stated below:

CitiMortgage, Inc., President and CEO: Sanjiv Das, 1000 Technology Dr., O'Fallon, MO 63368
Martha Ann Bryan, Debtor, 11011 Whitegate Ave, Sunland, CA 91040

☐ Service information continued on attached page

3. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

☐ Service information continued on attached page